

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GARNELL BAILEY,)
Plaintiff,) Civil Action No. 02-4683
v.) Judge James Knoll Gardner
LUCENT TECHNOLOGIES INC. and)
AGERE SYSTEMS INC.,)
Defendants.)

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR ADDITIONAL TIME TO FILE BRIEF
IN SUPPORT OF RULE 59 AND RULE 59(E) MOTIONS**

Defendants Lucent Technologies Inc. and Agere Systems Inc., by and through their undersigned counsel, oppose Plaintiff's Motion for Additional Time to File a Brief in Support of her Rule 59 and 59(e) Motions.

Rule 7.1(c) of the Local Rules of Civil Procedure of this Court provides that: “[e]very motion not certified as uncontested, or not governed by Local Civil Rule 26.1(g), shall be accompanied by a brief containing a concise statement of the legal contentions and authorities relied upon in support of the motion.” Plaintiff does not deny that this Rule is applicable to her Rule 59 Motion, but asks for relief from this Rule. Plaintiff, however, has not shown cause why this Court should grant her such an extension. Plaintiff’s counsel asserts that he was out of the office from October 15, 2004 through October 25, 2004. As an experienced trial attorney, Plaintiff’s counsel must have been aware of both the possibility that his client might wish to file a post-trial motion and of the time required of him to prepare a brief in support of such a motion. Nevertheless, Plaintiff’s counsel waited until the final day for filing a motion under Rule 59 to seek leave for an extension of time to file a brief. Plaintiff’s counsel does not explain why he was unable to anticipate the need for additional time and seek leave from the Court sooner.

Moreover, although the Memorandum in Support of Plaintiff's Motion for Additional Time states that "counsel has spent significant time over the past few days identifying and researching the issues to be pursued in the Rule 59 and Rule 59(e) Motions," Plaintiff's Motion does not reflect any such identification and research. Indeed, Plaintiff's Rule 59 Motion cites no authority and references no specific evidence or errors at trial.

In short, Plaintiff waited until the last day to file her Rule 59 and 59(e) Motions and, having not properly prepared them, seeks additional time in which to do so. This is simply not grounds for an extension of time.

For these reasons, Plaintiff's Motion for Additional Time to File a Brief in Support of her Rule 59 and Rule 59(e) Motions should be denied.

Respectfully submitted,

s/ Theodore A. Schroeder

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Attorneys for Defendants,
Lucent Technologies Inc. and Agere Systems Inc.

Dated: November 5, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November, 2004, a true and correct copy of the foregoing **Defendants' Opposition To Plaintiff's Motion For Additional Time To File Brief In Support Of Rule 59 And Rule 59(e) Motions** was served by United States first class mail, postage prepaid on the following counsel of record:

Glennis L. Clark, Esquire
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s/ Theodore A. Schroeder

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